



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/172340

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 23, 2016, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner's appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.
2. The county agency notified the petitioner on February 18, 2015, that she would receive \$16 per month in FoodShare.

3. The petitioner filed an appeal on February 25, 2016, requesting that the FoodShare benefits awarded in February 2015 be increased retroactively.

DISCUSSION

FoodShare recipients must appeal negative decisions within 90 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it.

When the petitioner renewed her FoodShare benefits in February 2016, her allotment rose even though her financial circumstances remained the same. The higher allotment occurred because the agency is now allowing a deduction based upon her utilities that it didn't allow last year. She requests that she receive this deduction along with an increased allotment retroactive to March 1, 2015, when her previous allotment went into effect.

Because she disagrees with the amount of FoodShare she received last year, that award is considered a negative action by the county agency. That agency notified her on February 18, 2015, that that action was going to take place at the beginning of the next month. To file a valid appeal of that award, she would have to have done so within 90 days of March 1, 2015, or by May 31, 2015. She filed her only appeal on February 25, 2016, almost an entire year after the previous change went into effect, and almost nine months after it needed to be filed to be heard. Based upon this, I must dismiss the appeal.

CONCLUSIONS OF LAW

The petitioner cannot receive a retroactive increase in her FoodShare benefits because her appeal is untimely.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

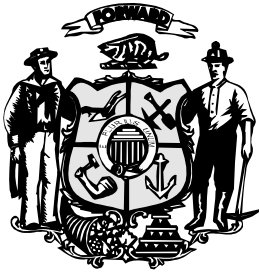
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 24th day of March, 2016

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on March 24, 2016.

Dunn County Department of Human Services
Division of Health Care Access and Accountability